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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,963	06/11/1999	RICHARD EARL MCNUTT	ODS/6	1075

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MATTHEW T BYRNE
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NEW YORK, NY 100201104

EXAMINER

CHERUBIN, YVESTE GILBERTE

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/330,963

Applicant(s)

MCNUTT ET AL.

Examiner

Yveste G. Cherubin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 12, 15-25, 27, 28 and 31-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12, 15-25, 27, 28 and 31-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/26/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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1. This action is in response to the RCE filed April 8, 2004. It has been noted that claims 1-2, 11-12, 15-18, 27-28, 31-34, 42-47, 55-58 have been amended, claims 10, 13-14, 26, 29-30 cancelled and claims 59-94 added.

Request for Continued Examination

2. The request filed on April 8, 2004 for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 09/330,963 is acceptable and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-12, 15, 17-25, 27-28, 31, 33-44, 46-57, 60-94 are rejected under 35 U.S.C. 102(b) as being anticipated by Dahl (PCT WO 97/28636).

Regarding claims 1-2, 17-18, 33-34, 46-47 Dahl discloses an interactive wagering system, see title, abstract, comprising a database that stores data relating to a plurality of wagering accounts, page 6, lines 1-4; and a plurality of types of user interface systems, that are configured to receive data relating to a single wagering account stored in the database, receive wager information from a user and provide data relating to a single wagering account to the user, wherein one of the plurality of the user interface

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systems is a television wagering control system that provides the data relating to the single wagering account to a television distribution system (6) and that receives the wager information from a television wagering terminal, and wherein at least another of the plurality of types of user interface systems is an interactive voice response control system (33) that receives a telephone call from an external source, that provides, to the external source through the telephone call, voice prompts that correspond to the data relating to the single wagering account, and that receives wager information from the external source through the telephone call, see abstract, page 2, lines 6-10, page 3, lines 2-4, 29-30, page 4, lines 1-8.

Regarding claims 3, 19, 35, 48 Dahl discloses the television distribution system being a cable system, page 11, lines 21-23.

Regarding claims 4, 20, 36, 49 Dahl discloses the television distribution system being a satellite television system, page 10, lines 25-32, page 11, lines 24-26.

Regarding claims 5, 21, 37, 50 Dahl discloses the television wagering terminal being a cable television set-top box, page 10, lines 5-15.

Regarding claims 6, 22, 38, 51 Dahl discloses the television wagering terminal being a satellite television receiver, page 4, lines 1-4.

Regarding claims 7, 23, 39, 52, Dahl discloses the television wagering control system receiving the wager information from the television wagering terminal via a telephone system connection, page 4, lines 31-34, page 5, lines 3+, page 7, lines 26-28.

Regarding claims 8, 24, 40, 53 Dahl discloses the television wagering control system receiving the wager information from the television wagering terminal via a cable system connection, page 3, lines 9-13.

Regarding claims 9, 25, 41, 54 Dahl discloses the television wagering terminal control system receiving the wager information from the television wagering terminal via a computer network connection, page 7, lines 1-4, 37-40, page 11, lines 10-16, 26-28.

Regarding claims 11, 27, 42, 55 Dahl discloses the interactive voice response control system receiving wager information as signals generated in response to one or more telephone key depressions, page 5, lines 32-36, page 6, lines 40-41, page 7, line 1.

Regarding claims 12, 28, 43, 56 Dahl discloses the interactive voice response control system receiving wager information as commands that are spoken by a caller, page 7, lines 28-33, page 8, lines 25+.

Regarding claims 15, 31, 44, 57 Dahl discloses the computer wagering control system providing the data relating to the single wagering account to the external computer and receiving the wager information from the external computer, through a telephone connection to the external computer, page 7, lines 1-4, page 10, lines 27+.

Regarding claims 59-94, it's already shown above the different communications among the systems, therefore refer to claims 1-9, 11-12, 15-16 above for the rejection. In addition, Dahl discloses using the user interface being the computer wagering control system capable of transmitting/receiving data through the internet connection, page 11, lines 13-16.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 32, 45, 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl.

Regarding claims 16, 32, 45, 58 Dahl discloses the claimed invention as substantially as shown above. Dahl further discloses the computer wagering control system providing the data relating to the single wagering account to the external computer and receiving the wager information from the external computer, through a telephone connection to the external computer, page 7, lines 1-4, page 10, lines 27+. It's known that a telephone can be in the form of wired or wireless telephone. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to allow interaction communication through a wireless communication in order to allow all types of user interfaces to access the system.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Xuan can be reached on (703) 308-2064. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ygc



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TC3700